



PATENT
514412-2020.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

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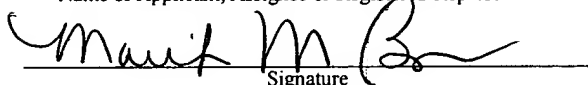
Applicants : Weston *et al.*
Serial No. : 09/698,903
Filed : October 27, 2000
For : **MALE-STERILE BRASSICA PLANTS AND METHOD FOR
PRODUCING SAME**
Examiner : A. Kubelik
Unit : 1638

745 Fifth Avenue
New York, NY 10151

I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail in an envelope
addressed to: Mail Stop AF Commissioner for Patents, P.O.
Box 1450, Alexandria, VA 22313-1450, on November 3, 2003.

Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative


Signature

November 3, 2003

Date of Signature

TERMINAL DISCLAIMER

Commissioner for Patents
Mail Stop AF
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in further response to the July 1, 2003 Office Action, with an Amendment After Final Office Action under 37 C.F.R. 1.116 filed herewith.

I, Marilyn Matthes Brogan, declare that I am the attorney of record and that I am authorized to execute terminal disclaimers on behalf of Bayer BioScience N.V. ("Bayer"), formerly Aventis CropScience N.V. ("Aventis"), the assignee of the above-captioned application ("the present application") and of U.S. Patent No. 6,509,516 ("the '516 patent");

That Bayer has a place of business at Jozef Plateaustraat 22, B-9000, Gent, Belgium;

That Bayer is the assignee of the entire right, title and interest in, to and under the present application, U.S. Application Serial No. 09/698,903, as a continuation-in-part of US patent application Serial No. 09/430,437, filed on October 29, 1999, now U.S. Patent No. 6,509,516, by

virtue of the assignment from the inventors to Aventis, recorded at the U.S. Patent and Trademark Office on December 27, 2000, and set out at Reel 011404 and Frame 0757, and by virtue of the Change of Name from Aventis CropScience N.V. to Bayer CropScience N.V. to Bayer BioScience N.V. that was requested on November 3, 2003 (copy of documents attached);

That Bayer is the assignee of the entire right, title and interest in, to and under the '516 patent, by virtue of the assignment from the inventors to Plant Genetic Systems N.V., recorded at the U.S. Patent and Trademark Office on October 29, 1999, and set out at Reel 010361 and Frame 0561, and by virtue of the Change of Name from Plant Genetic Systems N.V. to Aventis CropScience N.V. to Bayer CropScience N.V. to Bayer BioScience N.V. that was requested on November 3, 2003, (copy of documents attached);

That Bayer hereby disclaims the terminal part of any patent granted on the present application which would extend beyond the expiration date of the full statutory term of the '516 patent;

That Bayer hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the '516 patent, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns;

That no terminal part of any patent granted on the present application is disclaimed prior to the full statutory term of the '516 patent, in the event that said '516 patent earlier expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed under 37 C.F.R. §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above;

In accordance with 37 C.F.R. § 3.73(b), the undersigned attorney of record, empowered to sign this Statement on behalf of the assignee, states that Bayer, is the assignee of the entire right, title and interest in the patent and patent application identified above (the '516 patent and the present application) by virtue of the assignment identified above;

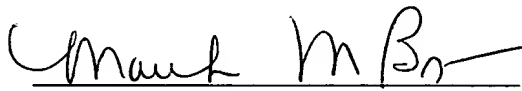
And thus, that the undersigned has reviewed documents in the chain of title of the patent and patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above.

Reconsideration and withdrawal of the double patenting rejection are respectfully requested and consideration, entry and recordation of this Terminal Disclaimer are also earnestly solicited, with any fee therefor or any overpayment in such fees, to be charged or credited to Deposit Account No. 50-0320.

It is also noted that this paper is being provided merely to expedite prosecution and is presented without admission, without prejudice, without surrender of subject matter, without any intention of creating any estoppel as to equivalents.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By: 
Marilyn Matthes Brogan
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